

Joseph H. Low IV (SBN 194897)  
THE LAW FIRM OF JOSEPH H. LOW IV  
One World Trade Center  
Suite 2320  
Long Beach, CA 90831  
Telephone: (562) 901-0840  
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Attorney for Defendant  
LEONARDO SAN JUAN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Criminal Case No. 07CR3239-JM  
vs. Plaintiff, )  
LEONARDO SAN JUAN, JR. ) Defendant. )

## **MOTION TO OBTAIN A BILL OF PARTICULARS**

TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:

The defendant Leonardo San Juan, through undersigned counsel, moves the Court, pursuant to Fed. R. Crim. P. 7(f), for a bill of particulars with respect to count one. Leonardo San Juan requests a hearing on this motion.

## **FACTUAL BACKGROUND**

Defendant Leonardo San Juan is charged in a one count indictment containing a possession allegation. Count one of the indictment charges Leonardo San Juan, with Possession of an Unregistered Firearm in violation of 26 U.S.C. §5861(d).

Count one sets forth that from at least around July 5, 2006, Leonardo San Juan did:

willfully and unlawfully possess a firearm, to wit: one (1) fully automatic AK-47 machinegun, which had not been registered to defendant in the National Firearms Registration and Transfer Record.

## ARGUMENT

#### **1. The government should file a bill of particulars:**

Fed. R. Crim. P. 7(c)(1) provides that an indictment shall contain a “plain, concise, and definite written statement of the essential facts constituting the offense charged.” Fed. R. Crim. P. 7(f) gives the Court discretion to direct the filing of a bill of particulars in that regard. United States v. Ramirez, 54 F. Supp. 2d 25, 29 (D.D.C. 1999). Courts should grant a motion for a bill of particulars when ““necessary to prevent unfair surprise at trial”” and the Court must strike a ““prudent balance’ between the legitimate interests of the government and those of the defendants.” Id. (citing United States v. Butler, 822 F.2d 1191, 1192-93 (D.C. Cir. 1987) (additional citations omitted)). A bill of particulars “properly includes clarification of the indictment[.]” Ramirez, 54 F.Supp. 2d at 30.

## CONCLUSION

For the reasons stated above, and for any other reason that the Court may deem just and proper, defendant Leonardo San Juan respectfully requests that the Court direct the filing of a bill of particulars with respect to Count one of the indictment as requested herein.

DATED: December 20, 2007

Respectfully Submitted,

*/s/ Joseph H. Low IV*

JOSEPH H. LOW IV

Attorney for Defendant

Leonardo San Juan

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Criminal Case No. 07CR3239-JM  
vs. Plaintiff, )  
LEONARDO SAN JUAN, JR. ) Defendant. )

**IT IS HEREBY CERTIFIED THAT:**

I, MEGAN TANKERSLEY, am a citizen of the United States and am at least eighteen years of age. My business address is One World Trade Center, Suite 2320, Long Beach, CA 90831.

I am not a party to the above-entitled action. I have caused service of **MOTION TO OBTAIN A BILL OF PARTICULARS** on the following parties by electronically filing the foregoing with the Clerk of the District Court using ECF System, which electronically notifies them.

Karen P. Hewitt  
United States Attorney  
Nicole Acton Jones  
Assistant U.S. Attorney

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 20, 2007

/s/ Megan Tankersley  
MEGAN TANKERSLEY

Joseph H. Low IV (SBN 194897)  
THE LAW FIRM OF JOSEPH H. LOW IV  
One World Trade Center  
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Attorney for Defendant  
LEONARDO SAN JUAN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Criminal Case No. 07CR3239-JM  
vs. Plaintiff, )  
LEONARDO SAN JUAN, JR. ) Defendant. )

MOTION TO CONTINUE MOTION HEARING/TRIAL SETTING

TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:

Leonardo San Juan, Jr., by and through his attorney, Joseph H. Low, IV, hereby moves this court to permit him to file motions after January 4, 2008, if such motions should become necessary because the government fails to comply with its obligation to produce such information in a timely fashion or because of newly uncovered information. As grounds for this motion, Leonardo San Juan states as follows:

1. At the arraignment on December 5, 2007, this Court set a January 4, 2008 deadline for filing all motions.

2. Counsel for the government has indicated that some initial discovery has been sent via mail to the defense, but has not been received by defense at the time of this motion. Therefore, such discovery is not complete at this time.

1           3. Federal Rules of Criminal Procedure, Rule 12(d) states: "The court must decide every  
2 pre-trial motion before trial unless it finds good cause to defer a ruling."

3           4. Undersigned counsel wishes to attempt to resolve all such discovery issues informally  
4 before filing a motion to compel, and to only file such a motion should these informal efforts be  
5 unavailing. Although the motions deadline is not until January 4, 2008, this motion is being filed  
6 prior to that date because undersigned will be out of the office for the entire time of December  
7 24, 2007- January 3, 2008.

8           5. Accordingly, the defendant requests that the Court permit him to file such motions  
9 after January 4, 2008, if the government fails to comply with its discovery obligations and  
10 informal efforts to resolve these issues are unsuccessful, or if newly disclosed discovery provides  
11 a basis for additional defense motions.

12           WHEREFORE, for the foregoing reasons, and other reasons this Court may deem just  
13 and proper, it is respectfully requested that defendant Leonardo San Juan's Motion be granted.  
14

15 DATED: December 20, 2007

16           Respectfully Submitted,

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18           \_\_\_\_\_  
19           /s/ Joseph H. Low IV  
20           JOSEPH H. LOW IV  
21           Attorney for Defendant  
22           Leonardo San Juan  
23           Email: joseph@jhllaw.com  
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26  
27  
28

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5 Attorney for Defendant  
6 LEONARDO SAN JUAN

7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA

9  
10 UNITED STATES OF AMERICA, ) Criminal Case No. 07CR3239-JM  
11 vs. Plaintiff, )  
12 LEONARDO SAN JUAN, JR. ) DECLARATION OF JOSEPH H. LOW IV IN  
13 ) SUPPORT OF MOTION TO CONTINUE  
14 ) MOTIONS HEARING/TRIAL SETTING  
Defendant. )  
\_\_\_\_\_  
)

15 I, Joseph H. Low IV, declare:

- 16 1. I am an attorney at law, licensed to practice before the United States District Court,  
17 Southern District of California. I know the facts set forth herein to be true of my own personal  
18 knowledge, except where otherwise indicated.  
19 2. I am counsel of record in this action for the Defendant, Leonardo San Juan.  
20 3. On December 20, 2007, I received a message from Nicole Jones stating discovery had not  
21 been provided to defense, however, she was going to mail the discovery today.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing  
23 is true and correct and that this declaration was executed this 20<sup>th</sup> day of December 2007.

24 Respectfully Submitted,

25  
26 /s/ Joseph H. Low IV  
27 JOSEPH H. LOW IV  
28 Attorney for Defendant  
Leonardo San Juan

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Criminal Case No. 07CR3239-JM  
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Executed on December 20, 2007

/s/ Megan Tankersley  
MEGAN TANKERSLEY